

By: Nichols, et al.  
(King of Parker)

S.B. No. 15

Substitute the following for S.B. No. 15:

By: Ashby

C.S.S.B. No. 15

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the Texas Consumer Privacy Act Phase I; creating  
3 criminal offenses; increasing the punishment for an existing  
4 criminal offense.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. This Act may be cited as the Texas Consumer  
7 Privacy Act Phase I.

8 SECTION 2. Section 11.030, Parks and Wildlife Code, is  
9 amended by amending Subsections (a) and (c) and adding Subsections  
10 (e-1), (e-2), and (e-3) to read as follows:

11 (a) The name and address and a telephone, social security,  
12 driver's license, bank account, credit card, or charge card number  
13 of a person who purchases customer products, licenses, or services  
14 from the department may not be disclosed, sold, rented, or traded  
15 except as authorized under this section or Section 12.0251.

16 (c) The commission by rule shall adopt policies relating to:

17 (1) the release of the customer information; and  
18 (2) the use of the customer information by the  
19 department [~~, and~~

20 [~~(3) the sale of a mailing list consisting of the names~~  
21 ~~and addresses of persons who purchase customer products, licenses,~~  
22 ~~or services]~~.

23 (e-1) The department may disclose statistical data and  
24 compilations of customer information described by Subsection (a) if

1 the information does not reveal information identifying a specific  
2 department customer or a department customer's address, telephone  
3 number, social security number, or driver's license number.

4 (e-2) The department may disclose customer information  
5 described by Subsection (a) only:

6 (1) to another governmental body, including a law  
7 enforcement entity, as needed to carry out a governmental purpose;

8 (2) if the customer that is the subject of the  
9 information consents in writing to the specific disclosure; or

10 (3) if the information is:

11 (A) part of a record that is considered to be a  
12 public record under Section 31.039; or

13 (B) authorized to be disclosed under Section  
14 31.0391.

15 (e-3) This section does not authorize the department to  
16 disclose information the department is prohibited from disclosing  
17 by other law.

18 SECTION 3. Section 204.011(a), Transportation Code, is  
19 amended to read as follows:

20 (a) The [~~Except as provided by this section or a rule~~  
21 ~~adopted by the commission under this section, the~~] department may  
22 not disclose to any person the name, address, telephone number,  
23 social security account number, driver's license number, bank  
24 account number, credit or debit card number, or charge account  
25 number of a person who:

26 (1) is or has been a subscriber to "Texas Highways"; or

27 (2) has purchased from the department a promotional

1 item described by Section 204.009.

2 SECTION 4. Section 548.601(a), Transportation Code, is  
3 amended to read as follows:

4 (a) A person, including an inspector or an inspection  
5 station, commits an offense if the person:

6 (1) submits information to the department's inspection  
7 database or issues a vehicle inspection report with knowledge that  
8 the submission or issuance is in violation of this chapter or rules  
9 adopted under this chapter;

10 (2) falsely or fraudulently represents to the owner or  
11 operator of a vehicle that equipment inspected or required to be  
12 inspected must be repaired, adjusted, or replaced for the vehicle  
13 to pass an inspection;

14 (3) misrepresents:

15 (A) material information in an application in  
16 violation of Section 548.402 or 548.403; or

17 (B) information filed with the department under  
18 this chapter or as required by department rule;

19 (4) submits information to the department's inspection  
20 database or issues a vehicle inspection report:

21 (A) without authorization to issue the report or  
22 submit the information; or

23 (B) without inspecting the vehicle;

24 (5) submits information to the department's inspection  
25 database indicating that a vehicle has passed the applicable  
26 inspections or issues a passing vehicle inspection report for a  
27 vehicle with knowledge that the vehicle has not been repaired,

1 adjusted, or corrected after an inspection has shown a repair,  
2 adjustment, or correction to be necessary;

3 (6) knowingly submits information to the department's  
4 inspection database or issues a vehicle inspection report:

5 (A) for a vehicle without conducting an  
6 inspection of each item required to be inspected; or

7 (B) for a vehicle that is missing an item  
8 required to be inspected or that has an item required to be  
9 inspected that is not in compliance with state law or department  
10 rules;

11 (7) refuses to allow a vehicle's owner to have a  
12 qualified person of the owner's choice make a required repair,  
13 adjustment, or correction;

14 (8) charges for an inspection an amount greater than  
15 the authorized fee;

16 (9) discloses or sells information collected in  
17 relation to the vehicle inspection program under this chapter about  
18 a unique customer or a unique vehicle owner to a person other than  
19 the department or the person who is the subject of the information,  
20 including a customer or vehicle owner's name, address, or phone  
21 number; or

22 (10) [~~(9)~~] performs an act prohibited by or fails to  
23 perform an act required by this chapter or a rule adopted under this  
24 chapter.

25 SECTION 5. Section 730.003, Transportation Code, is amended  
26 by adding Subdivision (1-a) and amending Subdivision (6) to read as  
27 follows:

1           (1-a) "Authorized recipient" means a person who is  
2 permitted to receive and use personal information from an agency in  
3 a manner authorized by this chapter.

4           (6) "Personal information" means information that  
5 identifies a person, including an individual's photograph or  
6 computerized image, social security number, date of birth, driver  
7 identification number, name, address, but not the zip code, e-mail  
8 address, telephone number, and medical or disability information.

9 The term does not include:

10           (A) information on vehicle accidents, driving or  
11 equipment-related violations, or driver's license or registration  
12 status; or

13           (B) information contained in an accident report  
14 prepared under:

15                   (i) Chapter 550; or

16                   (ii) former Section 601.004 before  
17 September 1, 2017.

18           SECTION 6. Section 730.006, Transportation Code, is amended  
19 to read as follows:

20           Sec. 730.006. REQUIRED DISCLOSURE WITH CONSENT. Personal  
21 information obtained by an agency in connection with a motor  
22 vehicle record shall be disclosed to a requestor who:

23                   (1) is the subject of the information; or

24                   (2) demonstrates, in such form and manner as the  
25 agency requires, that the requestor has obtained the written  
26 consent of the person who is the subject of the information.

27           SECTION 7. The heading to Section 730.007, Transportation

1 Code, is amended to read as follows:

2 Sec. 730.007. PERMITTED DISCLOSURES OF CERTAIN PERSONAL  
3 INFORMATION.

4 SECTION 8. Section 730.007, Transportation Code, is amended  
5 by amending Subsection (a) and adding Subsections (a-1) and (g) to  
6 read as follows:

7 (a) Personal information obtained by an agency in  
8 connection with a motor vehicle record may be disclosed to any  
9 requestor by an agency if the requestor:

10 (1) provides the requestor's name and address and any  
11 proof of that information required by the agency; and

12 (2) represents that the use of the personal  
13 information will be strictly limited to:

14 (A) use by:

15 (i) a government agency, including any  
16 court or law enforcement agency, in carrying out its functions; or

17 (ii) a private person or entity acting on  
18 behalf of a government agency in carrying out the functions of the  
19 agency;

20 (B) use in connection with a matter of:

21 (i) motor vehicle or motor vehicle operator  
22 safety;

23 (ii) motor vehicle theft;

24 (iii) motor vehicle product alterations,  
25 recalls, or advisories;

26 (iv) performance monitoring of motor  
27 vehicles, motor vehicle parts, or motor vehicle dealers; or

1 (v) [~~motor vehicle market research~~  
2 ~~activities, including survey research, or~~

3 [~~(vi)~~] removal of nonowner records from the  
4 original owner records of motor vehicle manufacturers;

5 (C) use in the normal course of business by a  
6 legitimate business or an authorized agent of the business, but  
7 only:

8 (i) to verify the accuracy of personal  
9 information submitted by the individual to the business or the  
10 agent of the business; and

11 (ii) if the information is not correct, to  
12 obtain the correct information, for the sole purpose of preventing  
13 fraud by, pursuing a legal remedy against, or recovering on a debt  
14 or security interest against the individual;

15 (D) use in conjunction with a civil, criminal,  
16 administrative, or arbitral proceeding in any court or government  
17 agency or before any self-regulatory body, including service of  
18 process, investigation in anticipation of litigation, execution or  
19 enforcement of a judgment or order, or under an order of any court;

20 (E) use in research or in producing statistical  
21 reports, but only if the personal information is not published,  
22 redisclosed, or used to contact any individual;

23 (F) use by an insurer, ~~or~~ insurance support  
24 organization, or ~~by a~~ self-insured entity, or an authorized agent  
25 of an insurer, insurance support organization, or self-insured  
26 entity [~~the entity~~], in connection with claims processing or  
27 investigation activities, antifraud activities, rating, or

1 underwriting;

2 (G) use in providing notice to an owner of a  
3 vehicle that was towed or impounded and is in the possession of a  
4 vehicle storage facility;

5 (H) use by a licensed private investigator agency  
6 or licensed security service for a purpose permitted under this  
7 section;

8 (I) use by an employer or an agent or insurer of  
9 the employer to obtain or verify information relating to a holder of  
10 a commercial driver's license that is required under 49 U.S.C.  
11 Chapter 313;

12 (J) use in connection with the operation of a  
13 ~~[private]~~ toll transportation facility or another type of  
14 transportation project described by Section 370.003;

15 (K) use by a consumer reporting agency, as  
16 defined by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et  
17 seq.), for a purpose permitted under that Act;

18 (L) use by a motor vehicle manufacturer,  
19 dealership, or distributor, or an agent of or provider of services  
20 to a motor vehicle manufacturer, dealership, or distributor, for  
21 motor vehicle market research activities, including survey  
22 research;

23 (M) use in the ordinary course of business by a  
24 person or authorized agent of a person who:

25 (i) holds a salvage vehicle dealer license  
26 issued under Chapter 2302, Occupations Code;

27 (ii) holds an independent motor vehicle

1 dealer or wholesale motor vehicle auction general distinguishing  
2 number issued under Chapter 503 of this code;

3 (iii) holds a used automotive parts  
4 recycler license issued under Chapter 2309, Occupations Code; or

5 (iv) is licensed by, registered with, or  
6 subject to regulatory oversight by the Texas Department of Motor  
7 Vehicles, the Texas Department of Banking, the Department of  
8 Savings and Mortgage Lending, the Credit Union Department, the  
9 Office of Consumer Credit Commissioner, the Texas Department of  
10 Insurance, the Board of Governors of the Federal Reserve System,  
11 the Office of the Comptroller of the Currency, the Federal Deposit  
12 Insurance Corporation, the Consumer Financial Protection Bureau,  
13 or the National Credit Union Administration; or

14 (N) use by an employer, principal, general  
15 contractor, nonprofit organization, charitable organization, or  
16 religious institution to obtain or verify information relating to a  
17 person who holds a driver's license or the driving history of a  
18 person who holds a driver's license if the person is employed by,  
19 works under a contract with, or volunteers for the employer,  
20 principal, contractor, organization, or institution [~~(L) use for~~  
21 ~~any other purpose specifically authorized by law that relates to~~  
22 ~~the operation of a motor vehicle or to public safety].~~

23 (a-1) Personal information obtained by the Texas Department  
24 of Motor Vehicles in connection with a motor vehicle record may be  
25 disclosed:

26 (1) when referring potential violations to the Texas  
27 Office of Consumer Credit Commissioner, the Department of Public

1 Safety, or the comptroller, if the personal information is  
2 necessary for carrying out regulatory functions; or

3 (2) to the attorney general as part of a response by  
4 the Texas Department of Motor Vehicles to a subpoena or a discovery  
5 request, if the personal information is necessary for litigation  
6 purposes.

7 (g) An agency may request that an authorized recipient or  
8 other person in possession of personal information disclosed for a  
9 use authorized by this section provide to the agency information  
10 sufficient for the agency to determine whether the authorized  
11 recipient or person has complied with this chapter, agency rules,  
12 or other law that applies to the disclosed personal information.  
13 The authorized recipient or person shall provide the requested  
14 information not later than the fifth business day after the date the  
15 agency submits the request unless the agency extends the deadline  
16 to provide a reasonable period to produce the requested  
17 information.

18 SECTION 9. Chapter 730, Transportation Code, is amended by  
19 adding Sections 730.0121 and 730.0122 to read as follows:

20 Sec. 730.0121. DELETION OF INFORMATION REQUIRED IF NOT  
21 AUTHORIZED RECIPIENT. An agency by rule shall require a requestor  
22 to delete from the requestor's records personal information  
23 received from the agency under this chapter if the requestor  
24 becomes aware that the requestor is not an authorized recipient of  
25 that information.

26 Sec. 730.0122. CIVIL SUIT. (a) A person who discloses for  
27 compensation to a person who is not an authorized recipient

1 personal information obtained by an agency in connection with a  
2 motor vehicle record is liable to the person who is the subject of  
3 the information for:

- 4           (1) actual damages;  
5           (2) if the actual damages to the person are less than  
6 \$2,500, an additional amount so that the total amount of damages  
7 equals \$2,500; and  
8           (3) court costs incurred by the person who is the  
9 subject of the information in bringing the action.

10           (b) A person whose personal information has been disclosed  
11 for compensation to a person who is not an authorized recipient may  
12 sue for:

- 13           (1) the damages, costs, and fees authorized under  
14 Subsection (a);  
15           (2) injunctive relief; and  
16           (3) any other equitable remedy determined to be  
17 appropriate by the court.

18           (c) A district court has exclusive original jurisdiction  
19 over a cause of action brought under this section.

20           SECTION 10. Section 730.013, Transportation Code, is  
21 amended to read as follows:

22           Sec. 730.013. [~~RESALE OR~~] REDISCLOSURE; OFFENSE. (a) An  
23 authorized recipient of personal information may not [~~resell or~~]  
24 redisclose the personal information in the identical or a  
25 substantially identical format the personal information was  
26 disclosed to the recipient by the applicable agency.

27           (b) An authorized recipient of personal information may

1 ~~[reseller]~~ redisclose the information, including redisclosure for  
2 compensation, only for a use permitted under Section 730.007.

3 (c) An ~~[Any]~~ authorized recipient who ~~[resells or]~~  
4 rediscloses personal information obtained from an agency shall be  
5 required by that agency to:

6 (1) maintain for a period of not less than five years  
7 records as to any person or entity receiving that information and  
8 the permitted use for which it was obtained; and

9 (2) provide copies of those records to the agency on  
10 request.

11 (c-1) A person who receives personal information under  
12 Subsection (b) may not redisclose the personal information,  
13 including redisclosure for compensation, to a person who is not an  
14 authorized recipient.

15 (c-2) An authorized recipient shall notify each person who  
16 receives personal information from the authorized recipient that  
17 the person may not redisclose the personal information to a person  
18 who is not an authorized recipient.

19 (d) A person commits an offense if the person violates this  
20 section. An offense under this subsection is a misdemeanor  
21 punishable by a fine not to exceed \$100,000 ~~[\$25,000]~~.

22 SECTION 11. The heading to Section 730.014, Transportation  
23 Code, is amended to read as follows:

24 Sec. 730.014. AGENCY RULES, ~~[, ORGANIZATION OF]~~ RECORDS, AND  
25 CONTRACTS.

26 SECTION 12. Section 730.014, Transportation Code, is  
27 amended by adding Subsections (c), (d), (e), and (f) to read as

1 follows:

2 (c) An agency that provides a requestor access to personal  
3 information in motor vehicle records in bulk under a contract under  
4 Section 730.007 shall include in the contract:

5 (1) a requirement that the requestor post a  
6 performance bond in an amount of not more than \$1 million;

7 (2) a prohibition on the sale or redisclosure of the  
8 personal information for the purpose of marketing extended vehicle  
9 warranties by telephone;

10 (3) a requirement that the requestor provide proof of  
11 general liability and cyber-threat insurance coverage in an amount  
12 specified by the contracting agency that is:

13 (A) at least \$3 million; and

14 (B) reasonably related to the risks associated  
15 with unauthorized access and use of the records;

16 (4) a requirement that if a requestor experiences a  
17 breach of system security, as defined by Section 521.053, Business  
18 & Commerce Code, that includes data obtained under Section 730.007,  
19 the requestor must notify the agency of the breach not later than 48  
20 hours after the discovery of the breach;

21 (5) a requirement that the requestor include in each  
22 contract with a third party that receives the personal information  
23 from the requestor that the third party must comply with federal and  
24 state laws regarding the records;

25 (6) a requirement that the requestor and any third  
26 party receiving the personal information from the requestor protect  
27 the personal information with appropriate and accepted industry

1 standard security measures for the type of information and the  
2 known risks from unauthorized access and use of the information;  
3 and

4 (7) a requirement that the requestor annually provide  
5 to the agency a report of all third parties to which the personal  
6 information was disclosed under this section and the purpose of the  
7 disclosure.

8 (d) An agency that discloses any motor vehicle records in  
9 bulk under Section 730.007 shall include in the records at least two  
10 records that are created solely for the purpose of monitoring  
11 compliance with this chapter and detecting, by receipt of certain  
12 forms of communications or actions directed at the subjects of the  
13 created records, potential violations of this chapter or contract  
14 terms required by this section.

15 (e) An agency that discloses motor vehicle records shall  
16 designate an employee to be responsible for:

17 (1) monitoring compliance with this chapter and  
18 contract terms required by this section;

19 (2) referring potential violations of this chapter to  
20 law enforcement agencies; and

21 (3) making recommendations to the administrative head  
22 of the agency or the designee of the administrative head of the  
23 agency on the eligibility of a person under Section 730.016 to  
24 receive personal information.

25 (f) This subsection does not affect any rights or remedies  
26 available under a contract or any other law. If an agency determines  
27 that a person has violated a term of a contract with the agency for

1 the disclosure under this chapter of personal information obtained  
2 by the agency in connection with a motor vehicle record, the agency  
3 may:

4 (1) cease disclosing personal information to that  
5 person; and

6 (2) allow the person to remedy the violation and  
7 resume receiving personal information.

8 SECTION 13. The heading to Section 730.016, Transportation  
9 Code, is amended to read as follows:

10 Sec. 730.016. INELIGIBILITY OF CERTAIN PERSONS TO RECEIVE,  
11 RETAIN, OR REDISCLOSE PERSONAL INFORMATION; OFFENSE.

12 SECTION 14. Section 730.016, Transportation Code, is  
13 amended by amending Subsection (a) and adding Subsection (c) to  
14 read as follows:

15 (a) A person who is convicted of an offense under this  
16 chapter, or who is determined in a civil action to be in violation  
17 of this chapter or [violates] a rule adopted by an agency relating  
18 to the terms or conditions for a release of personal information,  
19 including a rule adopted under Section 730.0121:

20 (1) [~~to the person,~~] is ineligible to receive personal  
21 information under Section 730.007;

22 (2) not later than one year after the date of  
23 conviction or the court's final determination under this  
24 subsection, shall delete from the person's records all personal  
25 information received under this chapter; and

26 (3) may not redisclose personal information received  
27 under this chapter.

1        (c) A person commits an offense if the person violates this  
2 section. An offense under this subsection is a misdemeanor  
3 punishable by a fine not to exceed \$100,000.

4        SECTION 15. The following provisions are repealed:

5            (1) Section 11.030(d), Parks and Wildlife Code; and

6            (2) Sections 204.011(c) and (d), Transportation Code.

7        SECTION 16. The changes in law made by this Act apply only  
8 to an offense committed on or after the effective date of this Act.  
9 An offense committed before the effective date of this Act is  
10 governed by the law in effect on the date the offense was committed,  
11 and the former law is continued in effect for that purpose. For  
12 purposes of this section, an offense was committed before the  
13 effective date of this Act if any element of the offense occurred  
14 before that date.

15        SECTION 17. (a) Section 730.0121, Transportation Code, as  
16 added by this Act, applies to a person who received personal  
17 information under Chapter 730, Transportation Code, before the  
18 effective date of this Act, and is not an authorized recipient, as  
19 defined by Section 730.003(1-a), Transportation Code, as added by  
20 this Act, of that personal information under Chapter 730,  
21 Transportation Code, as amended by this Act.

22        (b) Notwithstanding Subsection (a) of this section, an  
23 agency to which Section 730.0121, Transportation Code, as added by  
24 this Act, applies may not require a person who received personal  
25 information from the agency before the effective date of this Act  
26 and is not an authorized recipient, as defined by Section  
27 730.003(1-a), Transportation Code, as added by this Act, of that

1 information to delete the information before the first anniversary  
2 of the effective date of this Act.

3 SECTION 18. This Act takes effect immediately if it  
4 receives a vote of two-thirds of all the members elected to each  
5 house, as provided by Section 39, Article III, Texas Constitution.  
6 If this Act does not receive the vote necessary for immediate  
7 effect, this Act takes effect September 1, 2021.